

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)



## UNITED STATES DISTRICT COURT

for the

District of Arizona

Phoenix Division

Cary VanDerMeulen

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

State of Arizona, Dept. of Corrections

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No. CV-17-3828-PHX-JAT-DMF

(to be filled in by the Clerk's Office)

Jury Trial Demanded  
2nd Amended Complaint

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

### NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Cary VanDerMeulen		
All other names by which you have been known:			
ID Number	289748		
Current Institution	Released		
Address	4621 E. Villa Rita Dr.		
	Phoenix	AZ	85032
	<i>City</i>	<i>State</i>	<i>Zip Code</i>

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

## Defendant No. 1

Name	Charles L. Ryan		
Job or Title ( <i>if known</i> )	Director of Arizona Dept. of Corrections		
Shield Number			
Employer	State of Arizona		
Address	1601 W. Jefferson		
	Phoenix	Arizona	85007
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

## Defendant No. 2

Name	Deborah Kinder		
Job or Title ( <i>if known</i> )	Facility Health Administrator - ASPC Douglas		
Shield Number			
Employer	ADOC / Corizon Health		
Address	6911 N BDI Blvd.		
	Douglas	Arizona	85607
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

## Defendant No. 3

Name	William Brunhofer		
Job or Title (if known)	Facility Health Administrator - ASPC Douglas		
Shield Number			
Employer	ADOC / Corizon Health		
Address	6911 N. BDI Blvd.		
	Douglas	Arizona	85607
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
	<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity		

## Defendant No. 4

Name	Chaplain Herman		
Job or Title (if known)	Head Chaplain - ASPC Douglas		
Shield Number			
Employer	Arizona Dept. of Corrections - ASPC Douglas		
Address	6911 N. BDI Blvd.		
	Douglas	Arizona	85607
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
	<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity		

**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
- ☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Eighth, First, and Fourteenth amendments of the US Constitution

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Defendant #5                    Alex Ruiz  
   Coordinator of Food Services  
   Arizona Dept. of Corrections - ASPC Douglas  
   6911 N. BDI Blvd.  
   Douglas, Arizona 85607

in both a professionally capacity and individually

Defendant #6                    Meegan Muse  
   Warden - ASPC Douglas  
   Arizona Dept. of Corrections  
   6911 N. BDI Blvd.  
   Douglas, Arizona 85607

in both a professionally capacity and individually

Defendant #7                    Capt. Paul Martell  
   Corrections / Disciplinary Officer  
   Arizona Dept. of Corrections  
   6911 N. BDI Blvd.  
   Douglas, Arizona 85607

in both a professional capacity and individually

Defendant#8                    CO III Lomeli  
   Corrections / Disciplinary Officer  
   Arizona Dept. of Corrections  
   6911 N. BDI Blvd.  
   Douglas, Arizona 85607

in both a professional capacity and individually

Defendant #9                    Corizon Health Services  
   950 W. Elliot Rd. Suite 220  
   Tempe, Arizona 85254

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

see attached counts

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☒ Other (*explain*) Released

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.
- While in custody of the Arizona Dept. of Corrections during the course of incarceration and continuing for the duration thereof.

C. What date and approximate time did the events giving rise to your claim(s) occur?

Between the dates of 3/30/2014 and 10/20/15 - dates for which grievances were filed contain more pertinent information as to the allegations made in this complaint; however, the civil rights violations to which these pertained existed for the duration of confinement.

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D. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

see attached counts

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## V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Suffered from deprivation (denied food) and suffered from pain inflicted by conditions of incarceration - refused proper treatment for ongoing issues. Dental health also suffered greatly; had to be attended to upon release.

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## VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

### DEMAND FOR A JURY TRIAL

Request is made to have a jury hear the allegations levied in this complaint and decide on appropriate damages in the case of...

Compensatory damages - based on the number of days of incarceration that deprivation and infliction of pain and suffering took place.

Punative damages - for the callous indifference exhibited by repeated acts of civil right violations.

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**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Arizona Dept. of Corrections - Alhambra (Phoenix) and 'yards' at the ASPC Douglas, Gila and Eggers

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B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

Requests and complaints were filed in relation to all claims which have been filed here; in only one instance was any relief granted and that was when most of my time of incarceration had already passed. That was in relation to being recognized as a "vegetarian", however, even when such occurred I was denied access to such a diet - still denied proper food, with or without a 'diet'.

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

At the 'immediate' level with personnel on the yard, at the complex level with the warden, and at the top administrative level with "Central Office".

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2. What did you claim in your grievance?

Grievances - re. all manner of complaints now being filed. All of the appropriate paperwork detailing the filing of these requests and grievances has been retained and provide a complete 'track record' of this information. (a pile of paperwork that can be measured in inches.)

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3. What was the result, if any?

No relief was ever granted, save in the instance of (finally) being recognized as a vegetarian when all other avenues (levels) of the grievance process had been exhausted. By that time, most of the duration of incarceration had already passed and DESPITE the "official" designation, deprivation of food continued as I was still denied actual access to such a diet (although the food was readily available to inmates).

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4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

Every step of the process available was exhausted in an effort to secure the rights stated herein.

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

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G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Have such information in the form of 'hard-copy' paperwork for every grievance filed and at what level - any or all of which can be made available in support of the claims made in this complaint.

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*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

### VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

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☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_

**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: \_\_\_\_\_

Signature of Plaintiff

Printed Name of Plaintiff

Cary VanDerMeulen

Prison Identification #

289748

Prison Address

\_\_\_\_\_

City

\_\_\_\_\_

State

\_\_\_\_\_

Zip Code

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Cary VanDerMeulen, in pro per

Bar Number

Name of Law Firm

Address

4621 E. Villa Rita Dr.

Phoenix

City

Arizona

State

85032

Zip Code

Telephone Number

602-283-4646

E-mail Address

cary\_vdm@hotmail.com

1 Cary K. VanDerMeulen  
2 4621 E. Villa Rita  
3 Phoenix, AZ 85032  
4 (602) 283-4646  
5 cary\_vdm@hotmail.com

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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA  
PHOENIX DIVISION

Cary VanDerMeulen

V

STATE\_OF\_ARIZONA,

DEPARTMENT\_OF\_CORRECTIONS

Case Number

CV 17-03828-PHX-JAT (DMF)

COMPLAINT FOR VIOLATION OF  
CIVIL RIGHTS

The Arizona Department of Corrections, through their Policies,  
Procedures, and Administration, did cause:

Count 1) Denial of Proper and Adequate Nutrition (Basic Necessities) – **undue and unnecessary deprivation; refused proper and adequate food that was readily available to inmates. Caused plaintiff to go hungry and be malnourished as a result of their actions.**

Denial of basic necessities and a deliberate indifference to the provision of such – do not eat meat for health/religious reasons; not given a proper, adequate diet when ADOC knew from day one that I would not consume meat.  
**Went through all administrative remedies, but was still denied food.**

The Arizona Department of Corrections through their policy has sought to deny the right to proper food and nutrition, both in keeping with the lawful standards\* that have been set forth in meeting with basic nutritional requirements and in keeping with known nutritional needs of a person in their charge.

1  
2 \*as established by the National Academy of Science and other relied upon  
3 sources (see Addendum)

4 It should be noted in this regard that the menu provided by ADOC does not  
5 properly reflect the food that is actually given, i.e. The menu would say cheese,  
6 but a synthetic, oil-based product is substituted that does not comply with the  
7 nutritional value normally attributed to cheese - a dairy product. By the same  
8 token, where "broccoli" was specified on the menu, broccoli stalks were more  
9 often than not served - providing but a fraction of the nutritional value of  
10 "broccoli". (This is exemplary of the 'short-cuts' taken by ADOC when it  
11 comes to providing for the inmate population.)

12 Additionally, no regard is given to the (changing) nutritional requirements of  
13 an aged or aging population - specifically the 50+ category who are being  
14 given the same food as much younger men who can subsist on such a regimen  
15 with no (apparent) harm... i.e. sugar-coated cereals and high-carbohydrate  
16 'filler' products. **Effectively promoting the onset of 'old-age' diabetes and  
17 related diseases of old-age prompted by such a deleterious diet.**

18 A. ADOC denied medical need for a diet - stating that diets are a "religious  
19 matter" and referred requests for dietary needs to the 'Chaplain'.

20 1. Upon admission and almost immediately after entering ADOC, I met with a  
21 doctor (an employee of a contracted provider, Corizon Health) whom I  
22 informed that I do not eat meat. He was the first to tell me that (per ADOC),  
23 diets were a "religious" matter. I made (formal) request to see a chaplain, but  
24 received no response.

25 (This doctor also did nothing to see that the antibiotics that I had been  
prescribed and were taken from me by the Arizona Dept of Corrections upon  
admission got returned or replaced; see further under improper Medical.)

2. The Chaplain (Donnelly) deferred entertaining such request and  
subsequently retired.

3. The new Chaplain (Herman), repeatedly refused such request and  
[ridiculously] requested the religious grounds upon which someone should be



1 given proper food or 'how being denied food violated the exercise of my  
2 religious freedoms'. He exhibited a callous disregard for the rights and needs  
3 of a person, knowing that they were going without proper sustenance for the  
4 period of time in which these requests were being made, did take a full thirty  
(30) days in which to respond in each instance. This he did THREE times over.

5 **This he did, despite religious references (Biblical) as to the choices we**  
6 **make, admonishments against judging another man's choices, or [the**  
7 **absurdity] of following the dictates of another man's conscience - all**  
8 **detailed in the grievances supplied him.**

9 **Note: As stated, a record of all grievances filed and administrative**  
10 **remedies attempted can be supplied in support of these statements.**

11 4. It should be noted that no one handled such requests in the interim. I was  
12 informed by an 'associate' chaplain that they did not have the 'ability' (per  
13 ADOC) to address requests for a 'religious' diet; only the 'head' chaplain (of  
14 which there was none) could approve such requests. In essence, I was still  
15 being denied food, "in absentia".

16 B. With two exceptions, the Arizona Department of Corrections and their  
17 employees demonstrated a "deliberate indifference" to the nutritional needs  
18 of a person in their charge.

19 1. Through the auspices of ADW Gregory, I was 'allowed' and provided with  
20 proper meals for the brief period of time that I remained on the "Gila" yard.  
21 This was done by his stating that Alex Ruiz should put me on the dietary list  
22 until such time as 'official' approval was made for the diet. This was rescinded  
23 by Mr. Ruiz when I was no longer on the Gila yard, having been transferred to  
24 "Eggers" (within the same Douglas complex), and I raised issue with the fact  
25 that the kitchen there (for which he is responsible) was not supplying dietary  
food in keeping with the approved ADOC menu.

Instead of 'policing' the kitchen of which he was in charge, Mr. Ruiz, the ADOC  
'coordinator' with Trinity Food Service, chose to refuse food to an inmate.  
(As well as ignoring the fact that the kitchen manager at the time, "Valencia",  
was not complying with the mandated menu.)

1 In fact, Mr. Ruiz denied food on two occasions – first, as outlined above and  
2 secondarily, when I was (eventually) granted a "religious" diet, specified to be  
3 "vegetarian" per administrative directive (upon administrative appeal), but  
4 was given a "vegan" regimen instead, I did request that I be given such food as  
5 was readily available (and regularly served), in keeping with the  
6 administrative order – this he refused to do.  
7 (As with all such requests made, I have hard-copy documentation of the  
8 formal request made and the response had.)

9 Another potential issue is raised in this regard. ADOC was aware or should  
10 have been aware that there was no one (at the time of my transfer) on such a  
11 diet at the "Eggers" yard and that the kitchen staff may not have been  
12 conversant in (or amenable to) providing for these dietary needs.  
13 Yet, the transfer was administratively made, regardless.

14 2. The head administrator of Religious Services at Central Office, Mr.  
15 Linderman overrode Chaplain Herman's denial(s) for a diet and issued an  
16 order that I receive a "vegetarian" diet – an order which was not complied  
17 with by his subordinates or by any other employees of ADOC.  
18 I was in fact told by a number of them that a "vegetarian" diet at ADOC "did  
19 not exist", although the food which would comply with such a diet certainly  
20 did, was readily available, and was served to the population as a whole.

21 Apart from these two instances, I was denied a proper, adequate diet for the  
22 duration of my stay by all of the responsible parties involved – despite any  
23 directive that had been issued.

24 This would include - in addition to the named persons appearing above  
25 (Chaplain Herman and Alex Ruiz),

Charles Ryan, Director of ADOC – at the beginning of my incarceration at ASPC  
Douglas, received a certified letter as to the dietary needs of a person in his  
charge. Through his office and designated administrators, refused to provide  
for a proper/adequate diet.

Meegan Muse, Warden ASPC Douglas - received formal complaint regarding a  
person in her charge not receiving proper, adequate nutrition, as well as an  
administrative appeal of her decision to deny a proper and adequate diet.

1  
2 Despite ADOC policy and an attempt to restrict dietary approval based upon  
3 religious grounds, (multiple) requests were made to obtain a proper diet to  
meet with medically established needs...

4 **Starting with the letter\* to Charles Ryan, followed by numerous**  
5 **grievances and administrative appeals; ADOC and its employees**  
6 **knowing full well that a person in their charge was being deprived of**  
7 **proper and adequate nutrition for the duration of that time.**

8 \*My wife had sent a (certified) letter to the head administrator of ADOC,  
9 Mr. Charles Ryan, requesting that I be given a diet as was medically indicated  
10 and befitting a man of my years. The response had from a member of his staff  
– in essence, 'Well, I hope he has money to buy food (from the commissary)  
because we are not going to feed him'.

11 (Note: I have hard-copy documentation for what I am relating here – to and  
12 including one administrative submission after another placed in an attempt to  
13 rectify the matters of which I write.)

14 Count 2) Improper Medical Care – **in addition to the infliction of needless**  
15 **pain and suffering during my stay at ADOC, requested medical attention**  
16 **for the condition was denied, as were other basic medical necessities.**

17 A. Upon admission to ADOC, a valid prescription\* issued to a named patient  
18 (myself) was taken by the Department. Upon seeing a doctor at the facility  
(Alhambra in Phoenix), the prescription was not returned, nor replaced.  
19 A routine medical examination and interview given to all entrants at the time  
20 revealed two things:

21 1. The patient was still suffering the effects of a non-specific infection for  
22 which antibiotics had been prescribed and exhibited an elevated temperature  
(fever), of in excess of 100 degrees.

23 I was allowed to (needlessly) suffer with the malady that I had contracted  
24 without the assistance of the antibiotics to help me recover, and was  
25

1 needlessly placed at a substantial risk of additional complications by the  
2 interruption of a course of antibiotics.

3 **Without question, the interruption of a course of antibiotics is not**  
4 **medically sound and doing so places the patient at risk.**

5 Note: The healthcare provider who issued the prescription\* at a county  
6 facility and the doctor seen at ADOC are contracted from the same  
7 'outsourced' supplier of medical staff used by both the county and state,  
8 Corizon Health, Inc.

9 2. The patient had maintained a diet for a number of years that did not  
10 include the consumption of meat in order to preclude medical conditions as  
11 were indicated by coronary inflammation and elevated cholesterol levels.  
12 Such conditions were alleviated through diet without the necessity of  
13 resorting to the use of pharmaceuticals and suffering the complications\*  
14 thereof, as would otherwise have been the case.

15 \*One of these drugs (a statin) that the doctor would have prescribed in an  
16 attempt to 'fight the symptoms' from which I was suffering (while still on a  
17 diet that contained meat), my father had almost lost the function of his  
18 kidneys while taking; indicating the possibility of a "genetic predisposition" to  
19 such drugs. This information concerning 'physiological' history and make-up  
20 was conveyed to Ms. Kinder, the FHA at the time, **along with the medical**  
21 **reports substantiating a known condition and the clinical evidence**  
22 **(lab results) showing how the condition had been alleviated through diet.**

23 By this time, there is no doubt that a person in the charge of ADOC was  
24 'officially' being denied the basic necessity of food, was lacking a proper,  
25 adequate diet, and was continuing to be denied. It was known that he would  
not consume meat products to his own detriment in order to avoid inducing a  
medical condition resultant from such consumption...

Subsequently (in relation to the suffering inflicted by the conditions of  
confinement, detailed in E. below), it was indicated by those in the employ of  
ADOC that unless a 'condition' was "life threatening", nothing would be done  
by ADOC to treat such a condition; that ADOC was "under no obligation" to  
make any provision for such.

1 Elevated (high) blood pressure was given as an example of such a condition –  
 2 while ignoring the medical implications of the increased incidence of heart-  
 3 attack and stroke associated with arterial inflammation and high cholesterol;  
 4 as if those didn't pose a threat to life, the quality thereof, and certainly to  
 longevity. **The taking of a man's years in addition to those imposed by his  
 sentence.**

5 B. ADOC through their administrators and contracted employees did  
 6 (repeatedly) deny the provision of a proper and adequate diet, as was  
 7 medically indicated.

8 Apart from those individuals cited in Count #1, above, the following  
 9 individuals in their capacity for ADOC (as Facility Health Administrator) as  
 10 well as in their professional and personal capacities, did deny such a diet.

11 1. Deborah Kinder, FHA– a number of communications were had with Ms.  
 12 Kinder regarding the requirements for an approved diet. Despite any medical  
 13 indications to the contrary, Ms. Kinder refused to grant such approval –  
 14 making both excuse based on ADOC policy and subsequently (**when provided  
 15 with clinical evidence supporting such contentions – lab tests** run before  
 and after assuming such a diet); putting forth such absurdities as, 'Well you're  
 OK now, so there is no need for such a diet.', **in complete contradiction of  
 medically established criteria.**

16 For that matter, in contradiction of a number of things – above and beyond the  
 17 lack of common decency in denying food to a human being, ignoring one of the  
 18 basic tenants of healthcare as promulgated by the Hippocratic oath,  
 "First, to do no harm". Harm that Ms. Kinder now advocated in her response.  
 19 This, in addition to the charges of this complaint – the unlawful denial of a  
 20 basic necessity by the very people (Ms. Kinder and Mr. Brunhofer) who should  
 be the first in line to see that the needs of the inmates are met.  
 21 But then, such an immoral attitude, distain exhibited for what is descent, and  
 22 what is in fact mandated by the law, comes right from the "top".  
 (see reference to "Attitude from the "Top"<sup>1</sup>)

23 \*This statement was based in part on blood work that had been done while in  
 24 custody – and the indication that levels were "normal", although NO ACTUAL  
 25 RESULTS were ever obtained, despite [multiple] requests. (see D, below)

1  
2 (It should be noted that while operating in their capacity of FHA for ADOC,  
3 Ms. Kinder, as well as perhaps Mr. Brunhofer, were employees of a contracted  
4 agency, Corizon Health, Inc., hence their inclusion as a party to this action.)

5 2. William Brunhofer, FHA – assumed position as the health administrator for  
6 the facility and was written contesting the decision of his predecessor (as was  
7 his own). He denied a diet on the basis of ADOC policy, that diets were the  
8 providence of religious services and took no responsibility for the matter.  
9 He stated that an "allergy" would need to be claimed to substantiate a medical  
10 necessity. In other words, instead of providing for the care and well-being of  
11 an inmate, he espoused the 'rhetoric' prompted by ADOC policy, and exhibited  
12 an attitude of "patient be damned", despite his position as Healthcare  
13 Administrator for the facility.

14 C. The results of the medical tests that were conveyed to Ms. Kinder were  
15 never placed within the patient's medical records – indicative of not being  
16 able to receive proper health care, the records lacking such pertinent medical  
17 information.

18 From what I understand, prima facie evidence of a violation of civil rights in  
19 relation to medical and health care is to NOT place the medical history /  
20 records of a known condition into an inmate's medical file – reason being,  
21 "it is not possible" for them to receive the proper care if it is not documented  
22 or record made of it. The records in question were from a well-known,  
23 certified lab that various physicians send blood samples to for analysis. As a  
24 healthcare practitioner and in particular as the FHA, she should have been  
25 fully cognizant of the implications of not keeping / maintaining proper  
medical records (so as to provide proper medical care).

D. Specific request(s) were made for the (actual) results of the blood-work  
done, both verbally at the time it was administered, when I was told that the  
results would be 'shared' with me – a condition of my consent; and  
subsequently, in writing, to which request I received a single sheet of paper  
containing only one word, "Normal". Yet, ANOTHER request was made for the  
actual results, which medical request received NO RESPONSE.

1 It should be mentioned at this point that the Arizona Dept. of Corrections  
2 through their administrators and persons in their employ have continued to  
3 violate the rights of persons in their charge – despite ADOC having made  
4 agreement with the U.S. District Court concerning the curtailment of certain  
5 activities (policies and/or procedures) giving rise to these [continuing]  
6 violations.

7 I am speaking specifically about the settlement reached in the case of Parsons  
8 v. Ryan which details such activities; over one-hundred of them to which the  
9 Arizona Dept. of Corrections agreed to curtail or measures to which they are  
10 to adhere in settlement of the suit.

11 Specifically in this case, these items relate to:

12 Measure #47 - A Medical Provider will communicate the results of diagnostic  
13 study to the inmate upon request and within seven calendar days of the date  
14 of request.

15 Measure #71 - inmates with diagnosed and documented diseases OR  
16 conditions that necessitate a special diet will be provided the diet, if clinically  
17 indicated (emphasis provided)

18 As can be seen from what is conveyed here, the conditions of the settlement  
19 were not being met by the Arizona Dept. of Corrections. In fact, the civil rights  
20 violations which pertain to these two measures were committed in the very  
21 same manner as the enumerated measures (to which ADOC had agreed to  
22 adhere) were meant to preclude.

23 (Attitude from the ‘Top’<sup>1</sup>)

24 Through the auspices of CO IV Frisbee copies of a 16-page document outlining  
25 the state of health and medical care given at ADOC (of which I had some  
intimate knowledge), including specifically how the agreement to the  
provisions of the settlement in the case of Parsons v. Ryan were being ignored  
by ADOC, were distributed to Charles L. Ryan - Director of ADOC and one Mr.  
Richard Pratt - Interim Division Director of Health Services.

They were apparently so impressed with the details presented that nothing  
was heard from either of them in response, nor was ANY REMEDIAL ACTION  
forthcoming...

1 In this regard (in addition to the continued Civil Rights violations that the  
2 agreement was meant to curtail), the lack of integrity exhibited by these  
3 individuals that doesn't even carry the weight of the piece of paper they  
4 signed is reprehensible. (And nothing short of a "slap-in-the-face" to the  
Federal Court that ratified the agreement that these men so blatantly ignore.)

5 \*Both men were "the" signatories to the agreed settlement of Parsons v. Ryan -  
6 Further information on the distribution of the 16-page document and the case  
of Parsons v. Ryan has been provided in an Addendum.

#### 7 8 **E. The infliction of substantial and continued pain during incarceration.**

9 I suffer from a 'bad' back – a condition resultant from auto collisions that  
10 impacted my back and neck, for which I had been under frequent and  
11 intermittent chiropractic care ever since; a condition that was exacerbated  
12 due to sleeping on a 'bunk' that was a slab of steel. I had been issued a  
"medical mattress", another 'mat' that didn't supply much (more) in the way  
of cushioning, or 'cushion' the fact that I was lying atop a slab of steel.

13 Problems of discomfort and pain continued from one day to the next and  
14 despite multiple requests to be seen by a chiropractor when the pain became  
15 enough to drive one to distraction, it was continually denied.

16 It was at this time that I was introduced to the concept that as far as ADOC  
17 was concerned, care would only be provided for "life threatening"  
18 conditions... **incapacitation and long-term debilitation apparently don't  
matter to ADOC.**

19 It got so bad that one morning I arose to find that ANY movement – sitting  
20 down, standing-up, attempting to walk, brought excruciating pain. Beyond  
21 "baby steps" I was not mobile, to the point that one corrections officer asked if  
I needed a wheelchair. This had been brought on by another rough night, my  
22 back being 'tweaked' and kinked to the point of bones resting upon nerves.  
23 More than a 'baby-step' and I would literally fall on my face from an inability  
24 to extend as 'shooting' pains ran up and down my legs. I was already  
25 scheduled for a dental exam that day if I recall rightly. So, as I was already  
going to the Mohave yard (on the Douglas complex) where most of or the  
more involved medical treatment took place, "medical" endeavored to have  
the nursing staff 'take a look at me'. I was told, once again, that chiropractic

1 treatment was not [going to be made] available, although I pretty much knew  
 2 that as long as the nerves in my lower back were being impinged, I would  
 3 continue to have muscle spasms and pain. One of the nurses in particular was  
 4 familiar with conditions where muscles would seize-up as she had on occasion  
 5 gone to the hospital to get a shot that would relax the muscles and alleviate  
 6 the seizures as well as associated pain. However, she indicated that "I wasn't  
 7 getting any of that, here." The "best" they had to 'offer' was something  
 8 referred to as an ibuprofen 'derivative', "If I wanted to try it". Try it? Anything  
 9 to make the pain stop was motivation enough for me; not that it did a thing  
 10 but leave me with a bad 'metallic' taste in my mouth. **No proper medical**  
 11 **care – that which was indicated by the condition being suffered was not**  
 12 **to be had, not while in the custody of ADOC.**

13 F. Lack of proper dental care – the level of care provided while incarcerated  
 14 amounted to little more than an exam and [only] one 'cleaning' in a two-year  
 15 period. I had requested further care, but only received notification that I was  
 16 "on a waiting list". The condition of my oral health became so deteriorated  
 17 while in custody that I was subsequently told by more than one dentist that I  
 18 would have to (and did) undergo extensive 'perio' treatment before any  
 19 normal 'maintenance' routine could be resumed. Meaning that the condition  
 20 of my gums had so deteriorated due to not receiving proper treatment while  
 21 in the care of ADOC that I needed to have major work to come 'up to snuff'.  
 22 Work which is normally indicated for an aging population where more  
 23 problems arise from gum disease than from 'cavities'. Conditions recognized  
 24 as having potentially adverse effects on the overall health of the body and  
 25 organs. **The need for this care was ignored by ADOC and I suffered as a**  
**result.**

19 G. Potentially threatening exposure to otherwise unnecessary injections being  
 20 administered that would not have been required **save for the negligence or**  
 21 **treatment refused by the Arizona Dept. of Corrections.**

- 22 1. A "tetanus" shot was needed after being injured due to ADOC neglecting  
 23 to correct a dangerous situation (of which they were apprised);  
 however, what I received was a DPT shot.
- 24 2. Proper medical attention was needed for back 'seizure'; was given a  
 25 'shot' of an "ibuprofen derivative" instead. Not only 'improper'

1 treatment for the given condition (proper treatment being refused by  
2 ADOC and the action taken not being remedial), but ibuprofen drugs  
3 have been positively correlated to increased incidence of heart-attacks  
4 and strokes. Information that was not given or made available (prior to  
administration of the drug).

5 H. Medical care is so severely lacking that, **"I couldn't get as much as a**  
6 **"Pepto-Bismol" for intestinal problems brought on by bad food."**  
(perhaps bad preparation or handling)

7 How about some Kaopectate or Immodium? "NOPE"  
8 (short for, "no es posible")

9 REALLY! How is it that one of the most basic of healthcare remedies that  
10 could found in almost any 'medicine' cabinet in any home in America isn't  
11 provided for an entire prison population?

12 Note: As to the conditions where even the most fundamental of remedies  
13 could not be had, the contracted healthcare provider (Corizon Health) and/or  
14 its employees need to take responsibility for the role they play.

### 15 Count 3) Exercise of First Amendment Rights

16 As can be seen from these complaints, there is some 'overlap' as to the counts  
17 alleged and the laws to which the violations pertain. The same is true here...

18 A. Failure to recognize an expression of a religious freedom – denial of food

19 If I had been Jewish, I would have been fed. If I had been Moslem, I would  
20 have been fed. But, as a Christian, I am denied the "right" to food.

21 Chaplain Herman had the audacity\* to question the exercise of a religious  
22 belief as a (necessary) basis for the feeding a man; beliefs which were  
23 exemplified by many months of doing without [the basic necessity of] proper  
sustenance while ADOC continued to deny me.

24 As was explained to him (in writing, in religious terms) that when knows  
25 better, one does not do things to their own detriment (or anyone else's) as a  
matter of principle. He was told (in writing) that I do not (any longer) smoke

1 or drink by virtue of these reasons; nor, by that same reasoning, do I eat food  
2 which makes me 'sick'.

3 \*Someone versed in scripture does not question or contest the dictates of  
4 another man's conscience in the exercise of their religious beliefs, as is  
5 admonished in scripture. Chaplain Herman was provided with these  
6 scriptural references which had no sway on his continued refusal(s) to make  
7 provision for food. And, while refusal of a basic necessity may be entailed  
8 under the fourteenth amendment, basing such a refusal upon "religious"  
9 grounds (as supposedly dictated by ADOC "policy" regarding diets) and  
10 Chaplain Herman's pejorative attitude in the matter, impinges upon the  
11 exercise of a religious freedom as to what one puts in one's own body.

12 Chaplain Herman failed to respond or answer the inquiries put to him in our  
13 correspondence concerning the unsubstantiated assertions he made that were  
14 given as 'reasons' for denying a man food.

15 As to the matter of "firmly held" beliefs, abstaining from food that one would  
16 consume to one's own detriment over the course of many months pretty much  
17 says it all – anything less belies the fundamental tenants of religious belief;  
18 that in the same manner as one does not hurt others, one does not hurt  
19 oneself.

20 B. Denial of religiously related writings and an attempt to preclude such  
21 based upon an "approved publishers list", or as being from a particular source,  
22 without correlation to any penological interest.

23 A newly published (unused, not previously owned) and difficult to find copy of  
24 a book was sent to me (directly from the distributor) that had been purchased  
25 on Amazon. Due to the book being termed "third-party" by ADOC, they would  
not allow me to have the book due to its 'source' (Amazon Marketplace).  
Indeed, such a book was contained in the library at the Gila Yard and it was  
even stated by (the employees of) ADOC to whom grievances and appeals  
were submitted, that there was "nothing wrong with the book", but that it was  
'due to ADOC policy' that I could not have it while confined in their facility.

Because of the limited availability of the publication, to 'ban' such on the basis  
of the distributor from whom it is purchased is tantamount to banning it

altogether – just as food is sustenance to the body, such materials are food for the ‘soul’; can there be any greater deprivation?

Is this not why the courts have stood firm on the right of access to published materials? Anything less would provide only for the preservation of the body, while allowing the man himself to wither.

Count 4) Lack of Access to the Court

A. The resources to which I was limited in researching the legality of the wrongs done during the course of my stay in the Arizona Department of Corrections amounted to the writings of Prof. Michael Mushlin in his multi-volume work on the "Rights of Prisoners", along with a manual pertaining to the (administrative) "orders" of the Arizona Dept. of Corrections, and a Black's Law Dictionary...

This in and of itself represents a lack of access to the court which prevailed during my stay – per Prof. Mushlin, at a minimum, a library containing certain volumes and references are needed to substantiate an effort on the part to the institution in attempting to comply with that right of access; something that was definitely remiss.

B. Insufficient reference materials, no internet, no access to the court. No ‘modern’ means of accessing the court or the ability to research laws, legal procedures or principles were provided – no online access whatsoever. Nor for that matter, the use of ‘modern’ methods to produce legal documents (as an alternative to online, electronic submittal) – computers with word processing capabilities were available, but the use of such was denied, despite formal request being made specifically for legal purposes... (Not as much as an old typewriter and the use of some “Wite-Out”.)

C. Materials necessary to pursue legal matters were not provided. This all necessitated the use of ‘old-fashioned’ pen and paper – a pencil to be precise, in order to make corrections. Little or no provision was made for this, there being only one occasion in which such a provision was made, initially upon my incarceration when I was termed “indigent” as no money had ever been placed on my ‘books’. Once this occurred (whether there was money in

1 the account or not), I was deemed no longer 'qualified' to receive such  
 2 materials – no money, no materials, no access to the court.

3 D. The manual procedures outlined above (vs. electronic submittal)  
 4 necessitate the production of copies as required by the court, lots of them; the  
 5 sheer volume of which makes it a practical impossibility to reproduce court  
 6 submittals by hand.

7 Copies must be had from ADOC to make these submittals possible, but two  
 8 problems are posed in this regard.

- 9 1. The charges imposed by ADOC for the production of (legal) copies are  
 10 over and above the actual cost of production. When one is paid as little  
 11 as twenty-five cents an hour and the charge for a copy is ten cents a  
 12 page (vs. actual production cost), the charges to reproduce legal  
 13 documents is exorbitant.
- 14 2. While ADOC will not refuse to make legal copies, an accounting is kept  
 15 of the charges incurred. Once any money appears on the 'books' it is  
 16 immediately applied to any outstanding charges, regardless of any  
 17 money it might leave. This literally takes the food out one's mouth.  
 18 (Particularly when the word from Central Office was essentially,  
 19 'Well, I hope you have money, because we are not going to feed you.')

20 And ADOC is profiting from the charges collected in the mean time.  
 21 (Questions of this nature are raised in the Addendum.)

22 As an aside, once the pencil sharpener in the "library" broke and was not  
 23 replaced, the ability to even sharpen a pencil was eliminated, at least as far as  
 24 being provided by the ADOC. (And yes, it was brought to their attention.)  
 25 I know this might seem 'nit-picky', but it is just indicative of the conditions  
 which exist within the Dept. of Corrections that seem to make it [impossibly]  
 difficult to access the court; not the least of which is,

E. Lacking the resources or access to resources (as outlined above) that  
 would provide the knowledge or ability meet with the requirements of access  
 to the court; the principles, procedures, and forms (or format) necessitated,  
 ADOC provides for the assistance of a 'paralegal'. Or, so they say...  
 Multiple requests had to be made for such assistance, as initial request went  
 unanswered (unacceptable even by ADOC standards) and request had to be

made again. Once contacted by the paralegal, the information provided was of little use as the forms promised and the assistance offered never materialized.

**Count 5) Punitive action taken by ADOC in retaliation for pursuit of a "protected right" (the right to a basic necessity)**

I took the same tray of food offered to all inmates and was punished with additional time of incarceration (a LIBERTY CONDITION) for accepting a tray of food WHICH COULD NOT RIGHTFULLY BE DENIED.

This was despite the fact the tray of food was in compliance with the directive from Central Office that I be given a "vegetarian" diet. Due to it not being 'vegan', the diet I was "placed on" (as supposedly, a "vegetarian diet didn't exist"), the Department took the position that I had "disobeyed an order, either written or verbal" and was I so charged with a "major" violation. At least that is what was purported by the parties involved.

This was all contrived by ADOC contrary to the facts of the matter:

- 1) The food to comply with a "vegetarian" diet was readily available and was served to the inmate population as a whole – with the exception of the meat products served which could readily be supplemented with the food served to 'vegans'; yet I was denied the basic nutrition of food that was served to the population as a whole that would primarily comprise a protein constituent of a vegetarian diet – eggs and milk (dairy products)
- 2) The directive from Central Office specifically stated that I was to receive a "vegetarian" diet – a diet I did not receive, in contradiction of the order issued by a 'superior' authority within the ADOC structure than the personnel that refused to comply with such an order... i.e. Chaplain Herman's decision had been overridden by Central Office, yet Chaplain Herman did not comply with that order; nor, for that matter, did anyone else in a position subordinate to the Administration of Central Office.
- 3) There was no other order issued concerning my diet; only an "agreement" which by its very verbiage, did not constitute an order (in fact, it was not in compliance with an order that was issued).

1 The 'agreement' itself by its wording dictated the terms and conditions  
2 for such a diet and the repercussions if it was not followed (that did not  
3 include any "disciplinary" action).

4 What ensued was a complete "kangaroo court" headed by a Captain that I'd  
5 not previously met, Capt. Paul Martell. He developed an attitude because I had  
6 something to say about it, was willing to stand my ground and represent  
7 myself as to the facts of the matter – there never was any order given (written  
8 or otherwise) that had been violated. (No order, no possibility.)

9 I showed him the dietary 'agreement' that had been presented me by Chaplain  
10 Herman. Nowhere was there to be found any verbiage concerning an "order",  
11 or anything of that nature. At most, it stated that a diet could be 'pulled' for a  
12 period of six months if it was not adhered to; it made no indication of any  
13 'disciplinary action'. That, despite the fact that I had a document from Central  
14 Office that stated I was to be recognized as being a vegetarian (not a vegan),  
15 and that the tray of food, the same as offered every other inmate, conformed  
16 to a vegetarian diet. A document that Capt. Martell refused to look at... that  
17 and several pages of writing I had done the prior evening in support of my  
18 'case'. This he shoved aside and refused to view. At the conclusion of the  
19 'disciplinary hearing' when I reiterated that there was never any order given  
20 to violate, he got belligerent and told me to "gather my papers and get out". I  
21 said "OK, give me a minute" as I gathered-up the papers he had 'strewn' across  
22 the desk (as opposed to looking at). He responded with, "Take this crap off  
23 my desk, right now". "And, that's an order."

24 During the course of the "interrogation" the only infraction that could be  
25 determined to have been committed was by the Captain himself.  
26 He violated ADOC policy\* in not providing for a fair, impartial hearing,  
27 allowing a chance to present 'my side of the story' as was documented. That,  
28 and the tenants of any actual 'hearing' that is conducted – the right of the  
29 accused to answer the charges and present evidence in their defense.

30 \*Department Order 803 – the right to present evidence both *verbal and*  
31 *written*. (*emphasis provided*)

32 In these activities, Capt. Martell was "aided and abetted"\* by one CO III Lomeli,  
33 about whom I did document inappropriate activities on her part that  
34 comprised the production of falsified documents and the rendering of false  
35 statements. Due to the very incendiary nature of its contents it was only

1 reviewed (viewed) by a security officer and retained (under advisement) for  
2 future reference... filing of these charges against CO III Lomeli while still  
3 residing on the yard may have led to other reprisals on the part of a person or  
4 person(s) who had already proven themselves to be unscrupulous in their  
5 actions.

6 (\*If not instigated by her as the "Disciplinary Officer" on the yard who brought  
7 the false charges.)

8 This was an issue of major import as the 'result' of the "hearing" was the  
9 imposition of time being 'added' my sentence, or additional time of  
10 incarceration by refusing to recognize "good time" that had been accumulated.  
11 I received paperwork from ADOC subsequently, stating that I had been found  
12 "guilty" of disobeying a direct order by security personnel and the imposition  
13 of the additional time... (Yes, I did dispute this and have the paper 'trail'.)

14 Before I left ADOC, I also received more paperwork extending my stay even  
15 further with no rhyme or reason for it. I went to a CO III concerning the issue  
16 and put in paperwork requesting an explanation as to the "time calculation",  
17 but never received an answer prior to discharge. All of which, from my  
18 understanding, represents a "liberty interest" in relation to my incarceration.

19 **Rights that were violated at the whim of ADOC and its representatives;  
20 including Capt. Martell and CO III Lomeli.**

21 As to all of these matters, the civil violations by the Arizona Department of  
22 Corrections and by the people working on its behalf, it is sometimes difficult  
23 to discern or make a distinction concerning the actions of the persons  
24 involved in the deprivation of rights as to their acting in an official capacity  
25 when following a policy of the institution, or as to their personal responsibility  
in causing such deprivation. This is particularly true when the person  
involved is an administrator who has a hand in the formulation of such  
policies as opposed to their execution.

Personal responsibility in this regard is evident when such policies have  
already been challenged in court, yet violations continue in the same vein,  
regardless of any remedial action. Additionally, if such policies are in  
violation of constitutionally guaranteed rights, they are not lawfully  
enforceable and a claim that one was merely "following orders" does not  
provide an excuse for wrong-doing or operate as a means of personal  
indemnification.

1 When the person involved operates in a manner contrary to 'official' policy,  
2 the person involved clearly assumes a personal liability in this regard.

3 To clarify, I wish to pursue complaint against the Arizona Department of  
4 Corrections and persons in their employ BOTH as to their official capacity and  
5 as to their personal involvement and liability.

6 Dated this 29th day of June, 2018

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9 Cary K. VanDerMeulen, In Pro Per  
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Cary VanDerMeulen

Case Number

CV 17-03828-PHX-JAT (DMF)

V

CIVIL RIGHTS COMPLAINT

STATE\_OF\_ARIZONA,

DEPARTMENT\_OF\_CORRECTIONS

### Addendum

\*Due to these factors, I am relatively sure that the minimum federal standards established for the feeding of an inmate population have not been met by ADOC. This affects a whole lot more men (and women in similar institutions) than just those with various dietary 'restrictions'. It effects the entire population of these institutions for the duration of their stay... a little more significant in the 'scheme' of things than just the denial of food to particular inmates.

Note: All of these violations are supported by laws and case citations as presented in "The Rights of Prisoners" by Professor Michael B. Mushlin.

As mentioned, I have written and recorded documentation as to all of these violations as well as documentation showing that administrative remedy was pursued (and in most cases exhausted) during the time of my incarceration.

*"The degree of civilization in a society can be judged by entering its prisons."*

-Dostoevski

I seriously doubt that any man could read the contents of this complaint and not have their ire raised...

The 'Racket' of Providing for the Inmate Population – an issue that may well be deserving of some thought, and if violations of law be the case here, the activity is certainly organized.

The services which are contracted for by the ADOC are given to 'select' companies, the particulars of their patronage, ownership and relation to the

1 Department would certainly be in question, given that fact that any food or  
2 service provided costs over and above that which could be found "in an open  
3 market". The cost of items from the commissary are quite often higher than  
4 would could be found at your local "convenience store" which we all know  
carries a 'premium' for convenience, over and above those same items  
available at the market.

5 And, from what I understand, these prices are 'regulated' by the ADOC and  
6 'allowed' to be increased in cost only so much per year (a percentage of the  
already over-priced list).

7 The cost of phone calls (outgoing only, if one has the "privilege") are  
8 *astronomical* on a per minute basis as compared to what the rest of the world  
pays for communication costs.

9 The food service, an outside contractor given the responsibility of meeting  
10 ADOC guidelines (as well as those mandated federally) for the feeding of an  
inmate population.

11 The medical services provided, an outside contractor.

12 All of these 'vendors' are given 'exclusives' by the ADOC and when there are  
13 violations of federal laws and guidelines, they certainly play a part in the  
14 scenario. But, the one thing that they all have in common – they are under the  
15 control of the ADOC whose ultimate responsibility is to see that federal laws  
16 and guidelines are in compliance. It is the ADOC whose actions (apparently  
habitually and by their own dictates) are in violation of these laws and  
guidelines, including civil rights violations as outlined in this suit.

17 Along these lines, I think mention should be made of the imposition this  
18 causes and adverse impact upon the people who have 'done nothing wrong'  
but yet, are paying the price for incarceration – that of their loved ones.

19 It is usually the families and 'significant others' who pay that price (quite  
20 literally) for the questionable construct of the costs being imposed by ADOC  
21 for these items. The "privilege" of any human contact outside the confines of  
prison and the "luxury" of obtaining anything other than the (sub-standard)  
food provided...

22 Or, in this case, that which was NOT provided – not even the bare minimum of  
23 sustenance required to maintain the human body in a normal, healthfully  
24 functioning condition. To wit, my wife at the time paid this price – was so  
25 concerned about the deprivations that I was suffering, she did go without  
proper food herself in order to see that I had any descent amount of food to

1 eat (at the inflated prices imposed). I learned later how great her suffering  
2 due to the actions of ADOC – that of her Thanksgiving without me; she was left  
3 with so little money after making provision for others (myself and our four-  
4 legged ‘adopted’ family’), that she had but a peanut butter sandwich to eat  
5 that holiday.

6 Was there damage done here? You ‘betcha’ – unmitigated at that, and for this,  
7 the Department and the parties responsible are not forgiven.

#### 8 The Case of Mr. Ruiz – the serving of ‘tainted’ food at ADOC

9 Mr. Ruiz – a particularly corrupt individual, who, as "coordinator" between  
10 the food service and ADOC he was responsible for the serving of 'tainted' food  
11 to the men. Through his actions which were serving only to himself and his  
12 position, being much to the detriment of the men who he was responsible to  
13 'feed', did promote the serving of 'tainted' food to the men. Instead of  
14 removing or replacing the tainted item, he sat in front of us and attempted to  
15 lie to us about the food's condition; a condition we were all well aware of,  
16 despite any declarations to the contrary, since we were the ones to whom the  
17 food was being served.

18 Before leaving the Department of Corrections, I had amassed a petition of over  
19 fifty signatures protesting the condition of this particular food item, on a yard  
20 of a couple hundred men, most of whom were off the yard working at the time.  
21 This was presented to DW Langham, much to his consternation I'm sure, as he  
22 had previously announced to the men as a whole (at least those available  
23 during the course of the day), that he never wanted to see one of those "group  
24 complaints".

25 Unfortunately (or fortunately, as the case may be) I was not there to witness  
the outcome; I took my leave as I was told I could go.

Along these lines, I ran across something during my stay that may be of some  
significance. It was something I came across in one of the 'dorms' in which I  
resided on the Gila yard. The dorms had large 'community' waste receptacles  
located at various places within the dorm, or around the facility. Large, multi-  
gallon garbage cans is what they were. Plastic in construction and usually  
dark green in color. One of these in particular caught my attention one day as  
unlike most of the others, it had large white letters imprinted on it which said,

1 "USDA Condemned". That really got me thinking about why such a container  
2 would be there, or just how it might have come to be there (at ADOC).  
3 I really don't think that the USDA has an 'excess' of such containers that they  
4 are distributing them (sans contents) to various other governmental  
5 organizations; which leads to only one other consideration...  
(That ADOC may well have obtained 'tainted' food to be served to the inmate  
6 population.)

7 Parsons v. Ryan CV12-00601-PHX-DKD

8 The case of Parsons v. Ryan was in progress at the time that I was 'in the  
9 throes of it' with ADOC in relation to particular items pertinent to this case.  
10 As I recall, input was being sought at the time concerning the 'conditions' of  
11 the settlement and information as to this was posted around the ASPC.  
12 I availed myself of the opportunity to be of some assistance in the matter as I  
did have an intimate knowledge of the state of health and medical care given  
at ADOC.

13 A sixteen page letter (16 pages – handwritten, double-spaced) was produced  
14 outlining the same and was distributed as follows:

- 15 1) Through CO IV Frisbee copies were distributed to Charles L. Ryan -  
16 Director of ADOC and one Mr. Richard Pratt - Interim Division Director of  
Health Services.
- 17 2) A copy to the Clerk of the U.S. District Court, presumably to be made  
18 available to the judge in the case. (should be on file – sent 1/21/15)
- 19 3) A copy to each of the law firms instrumental in bringing the class action  
20 suit, the ACLU National Prison Project and the Prison Law Office

21 As to any response had, one "form letter" received from the Prison Law Office  
22 concerning submissions.

23 Apparently, Mr. Charles Ryan (and Mr. Pratt) were not 'phased' by being  
24 informed that ADOC was still in violation of some the very same issues that  
25 were raised in Parsons v. Ryan, despite the fact that agreement had been  
made by ADOC to implement measures to prevent continued rights violations.

1 No response was had from either Mr. Ryan or Mr. Pratt, nor were there any  
2 remedial actions taken.

3 If my understanding is correct, Mr. Charles Ryan cannot (normally) be sued  
4 personally, but is sued professionally in his official capacity as the Director of  
ADOC.

5 However, if I'm also not mistaken, this "professional immunity" from wrong-  
6 doing only extends so far... if the party in question is or has known to be in  
7 violation and continues said activity in contradiction to any remedial action  
that the court has already imposed, they no longer have the protection of their  
position as a public official.

8 Mr. Charles Ryan is not deserving of any such protection. To have civil rights  
9 violations and to continue with such violations in the same vein is not at all  
acceptable.

10  
11 By the same token, the individuals named in this complaint who have 'stepped  
12 outside' of the regulated conduct as dictated by the institution for which they  
work must assume personal liability for the damage they have done.

13 ADOC and these individuals have shown a blatant disregard of the rights of  
14 prisoners and a deliberate indifference to their health and well-being.

15 Continued civil rights violations, and specifically ignoring the provisions of  
16 Parsons v. Ryan make the attitude quite clear; potentially exacerbating the  
17 condition of indifference beyond being 'deliberate'; calloused would be more  
likely (and 'depraved' remains a possibility).

18 I am of the opinion that unless legal remedy and punitive action is sought,  
19 ADOC and the individuals responsible for rights violations will continue to  
20 have no compunction when it comes to the treatment of people in their charge  
21 in a less than human manner.  
22  
23  
24  
25